

**RESPONSE TO COMMENTS
REGARDING THE FEDERAL
RESOURCE CONSERVATION AND RECOVERY ACT PERMIT
TO BE ISSUED TO ROSS INCINERATION SERVICES
GRAFTON, OHIO
OHD 048 415 665**

INTRODUCTION

In accordance with 40 CFR § 124.17, the United States Environmental Protection Agency (U.S. EPA or the Agency) requested comments on its tentative determination to issue a new RCRA permit to Ross Incineration Services, located in Grafton, Ohio, and on the draft terms of the proposed federal permit. The 45-day comment period commenced on December 24, 2002, with a public notice in the Elyria Chronicle-Telegram. Pertinent information and materials were available at the Grafton-Midview Public Library, Grafton, Ohio. U.S. EPA and the Ohio Environmental Protection Agency (OEPA) jointly held a public hearing on the federal and state portions of the proposed RCRA permit on February 3, 2003. Five persons offered comments at the public hearing. Since none of these comments pertained directly to the terms of the federal portion of the draft RCRA permit, U.S. EPA defers to OEPA's response to these oral comments. The public comment period terminated on February 14, 2003. Only Ross Incineration Services, *i.e.* the Permittee, submitted written comments to the Agency.

The Agency issues this written response to the Permittee's comments pursuant to 40 CFR § 124.17. This section of the Code of Federal Regulations requires the Agency to: (1) specify in writing any modifications it has made to any of the draft provisions of a proposed RCRA permit, along with the reason(s) for any such change; (2) to describe and respond to all significant comments on the draft federal permit; and (3) to include any documents cited in the Agency's response in the administrative record.

As a result of written comments received from Ross, the following changes are being made for the final permit in addition to minor typographical and spacing changes.

GLOBAL CHANGES TO THE DRAFT PERMIT:

"The Permittee" will replace "Ross" throughout the permit and "Ross Incineration Services, Inc." will be removed from the page headers. This will minimize typographical actions for a permit modification should the company change its name.

SPECIFIC ISSUES RAISED BY ROSS:

Issues 1 thru 5: Ross contends that the proposed Federal RCRA Part B Permit should be made consistent in various respects with the facility's 1988 Federal RCRA Part B Permit. Ross requests that certain negotiated terms incorporated into the facility's 1988 Federal RCRA Part B Permit be included in this new permit. The Agency believes that there is no regulatory requirement to ensure consistency

between a facility's old and new Federal RCRA Part B Permits, and in fact such permits are issued for a specified amount of time, in part, to ensure fairness and consistency among all permitted facilities. The inclusion of the terms proposed by Ross into the new permit is not appropriate, since such terms are nowhere provided for by 40 CFR §§ 270.30 thru 270.33. The permit will not be revised.

Issue 6: Ross proposes to add reasonableness and practicality criteria to its obligation to report any noncompliance with its permit that endangers human health or the environment. Additionally, Ross proposes to limit the information it must report to that available at the time of the reporting. Ross contends that the language it proposes is required by the relevant regulations. Ross does not cite, however, to any regulation requiring that such limiting language be included in a Federal RCRA Part B Permit, and 40 CFR § 270.30(l)(6)(ii) does not contain any of the language Ross proposes. The condition is consistent with the requirements of 40 CFR § 270.30(l)(6) and 40 CFR § 270.32(b)(2), and the permit will not be revised.

Issue 7: Ross contends that any reference in its Federal RCRA Part B to "attachments," or to "designs, plans and schedules" is inappropriate, since the Ross permit does not have any attachment, design, plan or schedule. After consideration of Ross's comment, permit condition I.J. will be revised as follows:

I.J. All ~~attachments and~~ documents that this permit requires to be submitted ~~including all plans and schedules~~ are, upon the Director's approval, incorporated by reference and become an enforceable part of this permit. Since required items are essential elements of this permit, failure to submit any of the required items or submission of inadequate or insufficient information may subject ~~Ross~~ the Permittee to enforcement action under Section 3008 of RCRA. This may include fines, or permit suspension or revocation.

Any noncompliance with approved ~~designs, plans and schedules~~ documents is noncompliance with this permit. The Director may grant written request for extensions of the due dates for submittals required in the permit.

Issue 8:

Ross contends that the proposed permit precludes it from managing certain hazardous waste units at its facility that are not subject to Subpart BB. After consideration of Ross' comment, Condition II.A is revised as follows:

II.A EQUIPMENT

~~Ross~~ The Permittee must comply with all applicable requirements of 40 CFR Part 264, Subpart BB, regarding air emission standards from equipment leaks. As required by 40 CFR § 264.1064, ~~Ross~~ the Permittee must keep in the facility operating record a list of all the components subject to subpart BB and the specific section of subpart BB that is applicable to each such component. ~~Specifically, equipment at Ross facility is subject to the following~~

~~standards:~~ The Permittee is authorized to operate equipment subject to only the following Subpart BB standards.

40 CFR § 264.1052	Pumps in light liquid service
40 CFR § 264.1054	Pressure relief devices in gas/vapor service
40 CFR § 264.1055	Sampling connection systems
40 CFR § 264.1056	Open-ended valves or lines
40 CFR § 264.1057	Valves in gas/vapor or light liquid service
40 CFR § 264.1058	Pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service and flanges and other connectors

~~Ross is not allowed to manage hazardous waste in units not subject to the above standards.~~

Issue 9: Ross contends that certain proposed permit language regarding test methods and procedures is vague and inconsistent with the applicable regulations. The Agency directs Ross's attention to the requirements of 40 CFR § 264.1063(b)(3) regarding calibration of instruments before use on each day of their use.

Condition IIB in the permit will be revised as follows:

II.B Test Methods and Procedures

The Permittee ~~Ross~~ shall comply with the leak detection requirements of 40 CFR § 264.1063(b) for all the Permittee's ~~Ross'~~ equipment that is subject to subpart BB. Instrumentation used when monitoring for equipment leaks shall comply with the performance criteria and be calibrated before use on each day of its use in accordance with 40 CFR part 60, Reference Method 21.

Issue 10: Ross contends that the proposed language incorrectly suggests that Ross operates emission control devices subject to 40 CFR § 264.1065(a). Additionally, Ross requests a change in the dates on which it must submit its semiannual reports to U.S. EPA. After consideration of Ross's comment, Condition II.C. is revised as requested by Ross to remove the reference to emission control devices for equipment subject to subpart BB, and to allow 31 days after the end of the 6 month period to submit the required report.

Issues PH1 through PH5 do not address specific conditions in the draft Federal RCRA permit and do not require a response by U.S. EPA. They will be addressed by OEPA.

The written comments submitted by attendees at the public hearing do not address specific language in the draft Federal RCRA permit and do not require a response by U.S. EPA. They will be addressed

by OEPA.

ADDITIONAL ISSUES

1. After the issue of the draft RCRA permit on December 24, 2002, OEPA became authorized for two waste numbers, F037 and F038 (68 FR 3429, January 24, 2003) that were included in Ross' U.S. EPA draft permit. Because OEPA is now authorized for those wastes, they will be removed from Ross' U.S. EPA RCRA permit, Section III.
2. After the issue of the draft RCRA permit on December 24, 2002, Margaret M. Guerriero replaced Phyllis A. Reed as acting Director of the Waste, Pesticides and Toxics Division. The permit signature page will be changed to reflect the new director.

DETERMINATION

Based on a full review of all relevant data provided to the U.S. EPA, the U.S. EPA has determined that the final RCRA permit to be issued to Ross Incineration Services, Grafton, Ohio contains such terms and conditions necessary to protect human health and the environment.